

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

PEDRO MUNIZ-BARDA,
Plaintiff,

v.

VINYL AND CARPET SERVICES INC,
Defendant.

Case No. 1:21-cv-283
Dlott, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

This matter is before the Court on defendant Vinyl and Carpet Services Inc.'s motion to remand. (Doc. 5). The motion indicates that defendant contacted plaintiff Pedro Badra-Muniz about the pending motion, and plaintiff does not oppose the relief requested. (*Id.* at PAGEID 31). Since defendant filed its notice of removal from the Montgomery County Court of Common Pleas (Doc. 1), it has determined that removal was improper. Plaintiff originally filed the action in Ohio and defendant's principal place of business is in Ohio. *See* 28 U.S.C. § 1441(b)(2) ("A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.").

IT IS THEREFORE RECOMMENDED that defendant's motion (Doc. 5) be
GRANTED.

Date: 6/2/2021


Karen L. Litkovitz
Chief United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).